

CLD-357

August 23, 2007

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **07-2976**

SYLVESTER SHOCKLEY

VS.

WARDEN THOMAS CARROLL, ET AL.

(D. DEL. CIV. NO. 06-CV-0211-SLR)

Present: RENDELL, SMITH AND JORDAN, CIRCUIT JUDGES

Submitted is Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1)

in the above-captioned case.

Respectfully,

Clerk

MMW/MCF/isc

ORDER

The request for a certificate of appealability is denied. See 28 U.S.C. § 2253(c)(2). Shockley is a person in state custody challenging the constitutionality of his continued confinement, so he must obtain a certificate of appealability before this Court can review the district court's decision denying his habeas corpus petition. See Coady v. Vaughn, 251 F.3d 480, 486 (3d Cir. 2001). He has not made a substantial showing of the denial of a constitutional right, however. Jurists of reason would not debate the correctness of the district court's decision denying his habeas corpus petition on the merits. See Miller-El v. Cockrell, 537 U.S. 322, 338 (2003). For essentially the same reasons explained by the district court, Shockley has not shown that the application of Evans v. State, 872 A.2d 539 (Del. 2005), to his case deprived him of any constitutional right.

By the Court,

/s/ Kent A. Jordan

Circuit Judge



Marcia M. Waldron

Marcia M. Waldron, Clerk

Dated: September 21, 2007

ISC/cc: Sylvester Shockley